

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DENISE CARBONE,

Plaintiff,

-against-

MICHAEL J. ASTRUE,
Commissioner of Social Security

Defendant.

NICHOLAS G. GARAUFIS, United States District Judge.

BROOKLYN OFFICE
ORDER

08-CV-2376 (NGG) (MDG)

Plaintiff Denise Carbone brought this action against Michael J. Astrue, Commissioner of Social Security ("the Commissioner"), seeking review and reversal of the Commissioner's denial of her claim for Social Security disability insurance benefits. (See Compl. (Dkt. 1).) Plaintiff moved for judgment on the pleadings (Dkt. 10) and the Commissioner cross-moved for judgment on the pleadings (Dkt. 14). On August 26, 2010, the court issued a Memorandum and Order denying the Commissioner's motion for judgment on the pleadings, granting in part Plaintiff's motion for judgment on the pleadings, and remanding the case to the Social Security Administration for further proceedings. (See Mem. & Order (Dkt. 18).)

On November 3, 2011, Plaintiff moved for attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. (Pl. Mot for Fees (Dkt. 23).) The Commissioner did not oppose her motion. (Comm'r Resp. (Dkt. 25).) The court referred Plaintiff's motion to Magistrate Judge Marilyn D. Go for a Report and Recommendation ("R&R") pursuant to 28 U.S.C. § 636(b). (Nov. 9, 2012, Order.) On December 18, 2012, Judge Go recommended

that Plaintiff's motion be granted and that she be awarded \$16,881.20 in attorney's fees. (See R&R (Dkt. 26)). Objections to the R&R were due by January 4, 2013. (Id.) None were filed.

In reviewing a magistrate judge's R&R, the district court "may adopt those portions of the Report to which no objections have been made and which are not facially erroneous." La Torres v. Walker, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000); see also Porter v. Potter, 219 F. App'x 112, 113 (2d Cir. 2007) (failure to object waives further judicial review). The court reviews de novo "those portions of the report . . . to which objection is made." 28 U.S.C. § 636(b)(1).

No objections to Judge Go's R&R have been filed and the time to do so has passed. The court concludes that the R&R is not facially erroneous and thus adopts it in its entirety. Plaintiff's motion for attorney's fees is GRANTED, and Plaintiff is awarded \$16,881.20 in attorney's fees.

SO ORDERED.

Dated: Brooklyn, New York
April 1, 2013

s/Nicholas G. Garaufis
NICHOLAS G. GARAUFIS V
United States District Judge